

ASSEMBLY BILL

No. 921

Introduced by Assembly Member Jones

February 26, 2009

An act to amend Section 241.1 of the Welfare and Institutions Code, relating to children.

LEGISLATIVE COUNSEL'S DIGEST

AB 921, as introduced, Jones. Dual status children: access to services.

Existing law provides that, whenever a minor appears to come within the description of both a dependent child and a ward of the juvenile court, the county probation department and the child welfare services department are required initially to determine which status will serve the best interests of the minor and the protection of society, pursuant to a jointly developed written protocol.

This bill, in addition, would require the probation department to make every effort to ensure that the child's access to foster care services and supports is not relinquished.

By imposing additional duties upon county officials, this bill would create a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

SECTION 1. Section 241.1 of the Welfare and Institutions Code is amended to read:

241.1. (a) Whenever a minor appears to come within the description of both Section 300 and Section 601 or 602, the county probation department and the child welfare services department shall, pursuant to a jointly developed written protocol described in subdivision (b), initially determine which status will serve the best interests of the minor and the protection of society. The recommendations of both departments shall be presented to the juvenile court with the petition that is filed on behalf of the minor, and the court shall determine which status is appropriate for the minor. Any other juvenile court having jurisdiction over the minor shall receive notice from the court, within five calendar days, of the presentation of the recommendations of the departments. The notice shall include the name of the judge to whom, or the courtroom to which, the recommendations were presented.

(b) The probation department and the child welfare services department in each county shall jointly develop a written protocol to ensure appropriate local coordination in the assessment of a minor described in subdivision (a), and the development of recommendations by these departments for consideration by the juvenile court. These protocols shall require, which requirements shall not be limited to, consideration of the nature of the referral, the age of the minor, the prior record of the minor's parents for child abuse, the prior record of the minor for out-of-control or delinquent behavior, the parents' cooperation with the minor's school, the minor's functioning at school, the nature of the minor's home environment, and the records of other agencies that have been involved with the minor and his or her family. The protocols also shall contain provisions for resolution of disagreements between the probation and child welfare services departments regarding the need for dependency or ward status and provisions for determining the circumstances under which a new petition should be filed to change the minor's status. *The probation department shall make every effort to ensure that access to foster care services and support for a minor described in subdivision (a) is not relinquished.*

1 (c) Whenever a minor who is under the jurisdiction of the
2 juvenile court of a county pursuant to Section 300, 601, or 602 is
3 alleged to come within the description of Section 300, 601, or 602
4 by another county, the county probation department or child
5 welfare services department in the county that has jurisdiction
6 under Section 300, 601, or 602 and the county probation
7 department or child welfare services department of the county
8 alleging the minor to be within one of those sections shall initially
9 determine which status will best serve the best interests of the
10 minor and the protection of society. The recommendations of both
11 departments shall be presented to the juvenile court in which the
12 petition is filed on behalf of the minor, and the court shall
13 determine which status is appropriate for the minor. In making
14 their recommendation to the juvenile court, the departments shall
15 conduct an assessment consistent with the requirements of
16 subdivision (b). Any other juvenile court having jurisdiction over
17 the minor shall receive notice from the court in which the petition
18 is filed within five calendar days of the presentation of the
19 recommendations of the departments. The notice shall include the
20 name of the judge to whom, or the courtroom to which, the
21 recommendations were presented.

22 (d) Except as provided in subdivision (e), nothing in this section
23 shall be construed to authorize the filing of a petition or petitions,
24 or the entry of an order by the juvenile court, to make a minor
25 simultaneously both a dependent child and a ward of the court.

26 (e) Notwithstanding subdivision (d), the probation department
27 and the child welfare services department, in consultation with the
28 presiding judge of the juvenile court, in any county may create a
29 jointly written protocol to allow the county probation department
30 and the child welfare services department to jointly assess and
31 produce a recommendation that the child be designated as a dual
32 status child, allowing the child to be simultaneously a dependent
33 child and a ward of the court. This protocol shall be signed by the
34 chief probation officer, the director of the county social services
35 agency, and the presiding judge of the juvenile court prior to its
36 implementation. No juvenile court may order that a child is
37 simultaneously a dependent child and a ward of the court pursuant
38 to this subdivision unless and until the required protocol has been
39 created and entered into. This protocol shall include:

1 (1) A description of the process to be used to determine whether
2 the child is eligible to be designated as a dual status child.

3 (2) A description of the procedure by which the probation
4 department and the child welfare services department will assess
5 the necessity for dual status for specified children and the process
6 to make joint recommendations for the court's consideration prior
7 to making a determination under this section. These
8 recommendations shall ensure a seamless transition from wardship
9 to dependency jurisdiction, as appropriate, so that services to the
10 child are not disrupted upon termination of the wardship.

11 (3) A provision for ensuring communication between the judges
12 who hear petitions concerning children for whom dependency
13 jurisdiction has been suspended while they are within the
14 jurisdiction of the juvenile court pursuant to Section 601 or 602.
15 A judge may communicate by providing a copy of any reports
16 filed pursuant to Section 727.2 concerning a ward to a court that
17 has jurisdiction over dependency proceedings concerning the child.

18 (4) A plan to collect data in order to evaluate the protocol
19 pursuant to Section 241.2.

20 (5) Counties that exercise the option provided for in this
21 subdivision shall adopt either an "on-hold" system as described
22 in subparagraph (A) or a "lead court/lead agency" system as
23 described in subparagraph (B). In no case shall there be any
24 simultaneous or duplicative case management or services provided
25 by both the county probation department and the child welfare
26 services department. It is the intent of the Legislature that judges,
27 in cases in which more than one judge is involved, shall not issue
28 conflicting orders.

29 (A) In counties in which an on-hold system is adopted, the
30 dependency jurisdiction shall be suspended or put on hold while
31 the child is subject to jurisdiction as a ward of the court. When it
32 appears that termination of the court's jurisdiction, as established
33 pursuant to Section 601 or 602, is likely and that reunification of
34 the child with his or her parent or guardian would be detrimental
35 to the child, the county probation department and the child welfare
36 services department shall jointly assess and produce a
37 recommendation for the court regarding whether the court's
38 dependency jurisdiction shall be resumed.

39 (B) In counties in which a lead court/lead agency system is
40 adopted, the protocol shall include a method for identifying which

1 court or agency will be the lead court/lead agency. That court or
2 agency shall be responsible for case management, conducting
3 statutorily mandated court hearings, and submitting court reports.

4 SEC. 2. If the Commission on State Mandates determines that
5 this act contains costs mandated by the state, reimbursement to
6 local agencies and school districts for those costs shall be made
7 pursuant to Part 7 (commencing with Section 17500) of Division
8 4 of Title 2 of the Government Code.

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